

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

**AUDREY LATHAM and
GLENNIS LATHAM,
CO-ADMINISTRATORS OF THE ESTATE
OF DAVID LOUIS LATHAM, DECEASED,**

Plaintiff,

v.

CIVIL ACTION NO. 2:16cv203

**MICHAEL EDINGTON and
CITY OF NORFOLK,**

Defendants.

ANSWER TO AMENDED COMPLAINT

Michael Edington, by counsel, for his answer to the amended complaint filed herein, states as follows:

1. The averments of paragraph 1 of the amended complaint state legal conclusions to which no response is required.
2. Upon information and belief, the averments of paragraph 2 of the amended complaint are admitted.
3. The averments of paragraph 3 of the amended complaint are admitted.
4. The averments of paragraph 4 of the amended complaint are not directed to this defendant and require no response from him.
5. The averments of paragraph 5 of the amended complaint are not directed to this defendant and require no response from him.
6. The averments of paragraph 6 of the amended complaint state conclusions of law to

which no response is required.

7. Paragraph 7 of the amended complaint requires no further response.

8. The first sentence of paragraph 8 of the amended complaint is admitted. Not all of the remaining averments of paragraph 8 are accurate and are therefore denied.

9. Not all of the averments of paragraph 9 of the amended complaint are accurate and are therefore denied.

10. The averments of paragraph 10 of the amended complaint are denied.

11. The averments of paragraph 11 of the amended complaint are denied.

12. The averments of paragraph 12 of the amended complaint are denied.

13. Paragraph 13 of the amended complaint requires no further response.

14. The averments of paragraph 14 of the amended complaint are denied.

15. Paragraph 15 of the amended complaint requires no further response.

16. The averments of paragraph 16 of the amended complaint are denied.

17. Paragraph 17 of the amended complaint requires no further response.

18. The averments of paragraph 18 of the amended complaint are not directed to this defendant and require no response from him.

19. The averments of paragraph 19 of the amended complaint are not directed to this defendant and require no response from him.

20. The averments of paragraph 20 of the amended complaint are not directed to this defendant and require no response from him.

21. The averments of paragraph 21 of the amended complaint are not directed to this defendant and require no response from him.

22. The averments of paragraph 22 of the amended complaint are not directed to this

defendant and require no response from him.

23. The averments of paragraph 23 of the amended complaint are not directed to this defendant and require no response from him.

24. The averments of paragraph 24 of the amended complaint are not directed to this defendant and require no response from him.

25. The averments of paragraph 25 of the amended complaint are not directed to this defendant and require no response from him.

26. The averments of paragraph 26 of the amended complaint are not directed to this defendant and require no response from him.

27. The averments of paragraph 27 of the amended complaint are not directed to this defendant and require no response from him.

28. The averments of paragraph 28 of the amended complaint are not directed to this defendant and require no response from him.

29. In response to the averments of paragraph 29, this defendant admits that he was police officer for the City of Norfolk and acting in the scope of his employment.

30. The averments of paragraph 30 of the amended complaint are not directed to this defendant and require no response from him.

31. The averments of paragraph 31 of the amended complaint are not directed to this defendant and require no response from him.

32. The averments of paragraph 32 of the amended complaint are not directed to this defendant and require no response from him.

33. The averments of paragraph 33 of the amended complaint are not directed to this defendant and require no response from him.

34. The averments of paragraph 34 of the amended complaint are not directed to this defendant and require no response from him.

35. The averments of paragraph 35 of the amended complaint are not directed to this defendant and require no response from him.

36. The averments of paragraph 36 of the amended complaint are not directed to this defendant and require no response from him.

37. Paragraph 37 of the amended complaint requires no further response.

38. This defendant lacks knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 38 of the amended complaint.

39. While denying the causation and conduct allegations of paragraph 39 of the amended complaint, this defendant lacks knowledge or information sufficient to form a belief as to the averments of expenses, costs, loss of income and other alleged damages.

40. All averments of the complaint not specifically admitted are hereby denied.

Defenses

1. The amended complaint fails to state a claim upon which the relief requested can be granted.

2. This defendant's conduct was objectively reasonable under the circumstances and did not violate constitutional rights, or constitute gross negligence or common law battery.

3. This defendant did not use excessive force but used the appropriate and necessary amount of force under the circumstances.

4. This defendant enjoys qualified immunity for claims asserted in the amended complaint.

5. This defendant may rely upon the defenses of contributory negligence, voluntary

participation in criminal activity, assumption of risk, probable cause, justified use of force and sovereign and governmental immunity, to the extent supported by the law and the evidence.

6. This defendant will rely upon any and all other defense which become known to him up to and including the time of trial which are warranted by the law and the evidence.

7. By answering the amended complaint and denying liability as alleged, this defendant does not voluntarily and intentionally waive his rights and privileges under the Fifth Amendment to the United States Constitution or any other rights.

8. This defendant denies that the plaintiff is entitled to recover from him the sums identified in the amended complaint, or any sums.

/s/

Brian N. Casey, Esquire
Virginia State Bar No. 26710
James E. Brydges, Jr., Esquire
Virginia State Bar No. 4420
Attorneys for Michael Edington
TAYLOR WALKER, P.C.
Post Office Box 3490
Norfolk, Virginia 23514-3490
(757) 625-7300
(757) 625-1504 (fax)
bcasey@taylorwalkerlaw.com
jbrydges@taylorwalkerlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of June, 2016, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

John M. Cooper
Virginia State Bar No. 29064
William F. O'Mara, Jr., Esquire
Virginia State Bar No. 77146
Attorneys for Audrey Latham and Glennis Latham,
Co-Administrators of the Estate of David Louis Latham, Deceased

COOPER HURLEY
2014 Granby Street, Suite 200
Norfolk, Virginia 23517
(757) 455-0077
(757) 455-8274 (fax)
jcooper@cooperhurley.com
bomara@cooperhurley.com

/s/

Brian N. Casey, Esquire
Virginia State Bar No. 26710
James E. Brydges, Jr., Esquire
Virginia State Bar No. 4420
Attorneys for Michael Edington
TAYLOR WALKER, P.C.
Post Office Box 3490
Norfolk, Virginia 23514-3490
(757) 625-7300
(757) 625-1504 (fax)
bcasey@taylorwalkerlaw.com
jbrydges@taylorwalkerlaw.com